REMARKS

The claim amendments above are being presented in connection with a request for continued examination. In a final action mailed July 25, 2009, pending claims 1-6, 10-17, 44, 48-52, 55 and 60-75 were rejected, and claims 7-9 were objected to but indicated to be allowable if rewritten in dependent form. Applicants have amended claims 1, 13 and 67, and have added new claims 76-78 which correspond to prior dependent claims 7-9 indicated to be allowable. As such, claims 1-17, 44, 48-52, 55 and 60-78 are pending. Applicants request reconsideration in view of the amendments above and the following remarks.

Claim Rejections – 35 USC 103

Claims 1-6, 10-17, 44, 48-52, 55 and 60-75 stand rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent 5,353,800 to Pohndorf et al. ("Pohndorf"), either alone or in combination with other references. Without prejudice or admitting the correctness of the rejections, Applicants have amended each of the pending independent claims 1, 13 and 67 to define more particularly the subject matter sought to be patented. The amendments add no new matter. Support for the amendments is provided in Applicants' specification as originally filed, for example, in Figures 1C and 1M and page 17, line 17 to page 18, line 16 of Applicants' specification as filed. Applicants submit that each of the pending independent claims 1, 13 and 67 define subject matter that is patentable over Pohndorf and any of the other references of record, as do the pending dependent claims 2-12, 14-17, 44, 48-52, 55, 60-66 and 68-75.

In the Final Action mailed July 25, 2008, the rejections based on Pohndorf were reformulated to focus primarily on an embodiment shown in FIG. 8, as opposed to embodiments described in other figures that Applicants addressed in its prior office action response of April 28, 2008. Applicants refer to the arguments made in that paper, and do not repeat them in this paper, but rather focus the discussion in this paper on the FIG. 8 embodiment of Pohndorf.

Pohndorf discloses an implantable pressure sensor lead that includes a hollow needle coupled to a pressure transducer. (Abstract.) Referring to FIG. 8, Pohndorf discloses an embodiment that includes a hollow gauge needle 516 (col. 7, line 14) and a separate small diameter tube 530 that is shown and described as extending through the interior of the hollow gauge needle 516 and out the distal end of the hollow gauge needle 516 (col. 7, lines 22-24).

Pohndorf discloses that the small diameter tube is fabricated of polyamide or other flexible plastic, which serves as a pressure conduit which may be coupled to an external pressure transducer. (Col. 7, lines 24-29.)

Pohndorf further discloses that that as part of implantation process, the distal end of the needle 516 is advanced out of hollow torque cable 514 until the needle 516 enters the pericardial space. (Col. 7, lines 29-44.) Pohndorf discloses that "[a]t this point, tube 530 may be advanced into the pericardial space for pressure measurements." (Col. 7, lines 44-45.) Pohndorf discloses that "the extreme flexibility of tube 530 will prevent it from perforating the pericardium." (Col. 7, lines 45-47.)

With respect to independent claim 1, Pohndorf does not, however, disclose or suggest the subject matter of claim 1, as amended. For Example, Pohndorf does not disclose or suggest, as recited in Applicants' claim 1 as amended, a method that makes use of "a pressure sensor assembly comprising a pressure transducer and a pressure transmission catheter, the pressure transmission catheter consisting of a unitary tube structure that defines a single lumen within the unitary tube structure, the single lumen containing a pressure transmitting substance, the unitary tube structure having a distal portion that extends to a distal tip and a proximal portion, wherein the single lumen is in part within the proximal portion of the unitary tube structure and in part within the distal portion of the unitary tube structure," and wherein the "proximal portion [of the pressure transmission catheter] is more crush resistant than [a] distal portion [of the pressure transmission catheter], and wherein the distal portion is more flexible than the proximal portion and has a degree of flexibility and radiused corners such that the distal tip is atraumatic."

The Pohndorf device shown in FIG. 8, by contrast, comprises a tube (tube 530) within a separate tube (needle 516), and thus the combination of needle 516 and tube 530 is not a catheter that is "consisting of a unitary tube structure that defines a single lumen within the unitary tube structure," as is now explicitly recited in claim 1 as amended. Rather, the Pohndorf combination of the needle 516 and the tube 530 is not a unitary structure, and moreover, comprises two lumens, one defined by the needle 516, and one defined by the tube 530. In addition, the Pohndorf device shown in FIG. 8 does not disclose or suggest a "single lumen containing a pressure transmitting substance," wherein "the single lumen is in part within the proximal portion of the unitary tube structure [that 'is more crush resistant'] and in part within the distal

portion of the unitary tube structure [that 'is more flexible'], as recited in claim 1 as amended. In addition, Pohndorf does not disclose a method that includes "positioning the [pressure transmission] catheter so that the relatively crush resistant proximal portion is disposed in, and extends across a substantial portion of an entire distance of, a heart wall, and so that the relatively flexible distal portion is located substantially within a chamber of the heart."

Applicants claimed method and the recited structure used in that method yields advantages not present in the Pohndorf FIG. 8 device. Despite that Pohndorf discloses that the flexibility of the tube 530 prevents it from perforating the pericardium (col. 7, lines 46-47), the needle 516 still extends into the pericardial space (col. 7, lines 38-44), and remains unprotected. By contrast in the claimed subject matter which utilizes a unitary tube structure for the pressure transmission catheter, there is not a sharp tip of a proximal portion of the catheter exposed to cause damage; instead, the distal portion of unitary tube structure catheter in Applicants' claimed subject matter protects the proximal portion of the unitary tube structure catheter from causing damage. In addition, Applicants embodiment with its unitary tube structure for the catheter, as opposed to using two separate tubes as in the case of Pohndorf, may require a smaller puncture be made in the heart wall.

Accordingly, Applicants submit that independent claim 1 defines subject matter that is patentable over Pohndorf, as do dependent claims 2-12, 44, 50-52, 55 and 60-66. As such, Applicants respectfully request that the anticipation and obviousness rejections of claims 1-12, 44, 50-52, 55 and 60-66 be withdrawn.

With respect to independent claim 13, Applicants submit that claim 13 is patentable over Pohndorf for the reasons described above in connection with claim 1. In addition, U.S. Patent No. 6,328,699, upon which the obviousness rejection of claim 13 was based in part, does not cure the deficiencies of Pohndorf. Accordingly, Applicants respectfully request that the obviousness rejection of independent claim 13 and dependent claims 14-17, 48-49 and 69-70 be withdrawn.

With respect to independent claim 67, Applicants submit that claim 67 is patentable over Pohndorf for the reasons discussed above in connection with claim 1. Accordingly, Applicants respectfully request that the anticipation rejections of independent claim 67 and dependent claim 68 be withdrawn.

New Claims 76-78

Claims 76-78 are previously allowed dependent claims 8-10 with claim 76 being rewritten in independent form, and claims 77 and 78 dependent on claim 76. Applicants submit that claims 76-78 are in condition for allowance.

Conclusion

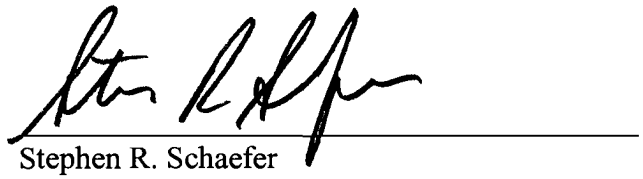
Applicants submit that claims 1-17, 44, 48-52, 55 and 60-78 are in condition for allowance, and request that the Examiner issue a notice of allowance.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please charge deposit account 06-1050 in the amount of $555 for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: Jan. 26, 2009



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